IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 620 OF 2005

IN

B.C.C.S.C. SUIT NO. 3485 OF 2002

Hitesh Madhav Prajapati & Anr. ..Appellants.

Versus

Madhavbhai Karsandas Prajapati ..Respondent.

Shri Suresh Bhosale for the Appellants.

Shri R.Sunder for the Respondent.

CORAM : D. G. DESHPANDE,J.

DATE : 13TH JUNE, 2005

P.C. :

1. Heard Advocate for the Appellants.

2. The appellant No.1 was the original defendant No.1. He challenged the present decree passed in a suit filed against him by his own father. The

appellants after filing written statement never appeared before the court. In the judgment, the court has given the dates upon which the matter was taken. The appellants did not take part in the suit to cross-examine witnesses of the plaintiff. The evidence was recorded on 8th October, 2003 and it was adjourned from that date till 5th February, 2004 and the judgment was delivered on 12th February, 2004. The court was justified in accepting the case of the plaintiff in this background and after coming to the conclusion that the plaintiff has proved its case in respect of all the issues and in fact as per issue Nos. 1 and 2, the burden to prove their defence was on the defendants/appellants, which they have not discharged. No merit in this Appeal. It is dismissed.

3. The appellants may file a separate suit for whatever right they have, accordingly to them, in the suit property.

13.06.2005 (D.G. DESHPANDE,J.)

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